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SUBJECT: TRANSMITTAL OF LETTER FROM PM NOURI AL-MALI KI TO
POTUS

¶1. (U) Post received a letter addressed to POTUS from Iraqi Prime Minister Nouri al-Maliki (PM) addressed on November 28, ¶2007. Scanned copies of the original document and the translation to English have been emailed to the NSC and NEA/I. The following is Post's translation of the Arabic text into English:

¶2. (U) Begin text:

Republic of Iraq
Nouri K. al-Maliki
Prime Minister

His Excellency George W. Bush
President of the United States of America

Washington

Your Excellency,

Article 134 of the Constitution of the Republic of Iraq stipulates that, "The Iraq High Criminal Court shall continue its duties, as an independent judicial body, to try the crimes of the defunct dictatorial regime and its symbols..." This Constitutional provision means that the Court is independent of all authorities including the judicial authority and that no entity can influence, or exercise pressure on it. Article (72/Second) of the law of the Court also stipulates that, "...no entity of whatsoever, including the President of the Republic (the Presidency Council) can pardon or reduce the sentence issued by this Court." It should be mentioned here that, the law of the Court is still valid based on the provisions of Articles (130 and 134) of the Constitution.

The Iraqi High Criminal Court has ruled that the convicts Ali Hassan al-Majid (also known as Chemical Ali), Sultan Hashim and Hussein Rashid Al-Tikriti be executed. The sentences were approved by the Court of Cassation and became final. Whereas, Article (27/second) of the law of the court stipulates that the punishment must be carried out within 30 days from the date the sentence becomes final, the Government has requested that the MNF-I hand over the convicted individuals to the competent governmental authorities to carry out the sentence in accordance with the law. Surprisingly, the MNF-I refused to hand over the convicts despite the fact that they are legally in the custody of the Iraqi Government and the MNF-I is responsible only for their physical custody. The refusal to hand over the convicted individuals to the Iraqi Government delayed carrying out the sentences beyond the period stipulated by the law of the Court and caused failure of the Iraqi Government to carry out its legal and constitutional obligations.

The refusal of the MNF-I to hand over the convicts to the

governmental authorities to carry out the final sentences is a violation of Iraqi law and is an intervention by the MNF-I in the affairs of the Iraqi Government and the Iraqi judiciary. The reasons provided by the MNF-I in justification of their refusal to hand over the convicts are unacceptable. The request by some members of the Presidency Council not to hand over the convicts before the approval of the sentences by the Council is a request that lacks legal basis, because the approval in this case becomes a mere formal procedure and has no objective impact on the verdicts in light of the provisions of Article (27/second) of the above mentioned law of the Court, in addition to Article (73) of the Constitution, which stipulates that special pardon cannot be granted for individuals convicted of international crimes, which are genocide, crimes against humanity and war crimes, noting that these individuals were convicted on charges of international crimes.

Based on the above, it is clear that the Council's approval is no longer needed and that any attempt to grant pardon, or to reduce the sentences, issued against the above mentioned convicts requires a constitutional amendment. The Supreme Federal Court clearly stated that the provisions of the Iraqi High Criminal Court must be observed. In other words, the sentence must be carried out within 30 days from the date the sentence becomes final and not to permit any entity, including the President of the Republic to pardon or reduce punishments issued by the Court, which contradicts the earlier announcements by some members of the Presidency Council of their intention to pardon or to reduce the sentences against the convicts mentioned above or some of them.

Your Excellency,

The convicts mentioned above have committed heinous crimes against the Iraqi people who were delighted because of the Court's just decisions to sentence them to capital punishment. Regrettably, the decision by the MNF-I to refuse handing over the convicts had a painful impact on the people. Also, this behavior has inflicted the greatest damage on the credibility of the Government, rule of the law and judicial judgments in Iraq. Consequently, we hope that your Excellency would intervene by ordering the MNF-I to respect Iraq's sovereignty and not to interfere in the affairs of the Iraqi Government and to hand over the convicts to the Government which we represent as soon as possible based on the provisions of Article (78) of the Constitution.

I avail myself of the opportunity to express my utmost respect and best wishes for your success and prosperity for our two peoples.

Signed,

Nouri Al-Maliki
Prime Minister
November 27, 2007

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